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COMMISSION ON HUMAN RIGHTS

SUB-COMMISSION ON PREVENTION OF DISCRIMINATION AND
PROTECTION OF MINORITIES

Forty-eighth session

SUMMARY RECORD OF THE 21st MEETING

Held at the Palais des Nations, Geneva,
on Tuesday, 20 August 1996, at 3 p.m.

Chairman: Mr. EIDE

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Any corrections to the records of the public meetings of the Sub-Commission at this session will be consolidated in a single corrigendum, to be issued shortly after the end of the session.

GE.96-13576 (E)

The meeting was called to order at 3.10 p.m.

CONSIDERATION OF DRAFT RESOLUTIONS AND DECISIONS (continued)

E/CN.4/Sub.2/1996/L.9/Rev.1 (continued)

1. Mr. BENGOA, responding to the statement by the observer for the Islamic Republic of Iran at the 19th meeting in which he had severely criticized the sponsors of the draft resolution, said that, in view of his country's remoteness from and very slender ties with the Islamic Republic of Iran, he failed to see what political goals his sponsorship could have served. Secondly, the observer had no right to accuse anybody present of acting in bad faith. Thirdly, with regard to reliability of sources, he had no doubt whatsoever, after weighing the information he had received from a variety of sources and reading the reports of the United Nations Special Representative and thematic rapporteurs, that persistent serious violations of human rights had occurred. The accusation of time-wasting did not merit a response. Lastly, while cooperation with the special procedures system was to be welcomed, no special merit could be claimed on that account unless practical action was taken to improve the human rights situation in the light of the resulting recommendations.

2. However, he agreed that even minor progress should be recognized and had no objection to the insertion of an operative paragraph in the draft resolution encouraging the Government of the Islamic Republic of Iran to continue with its new policy of cooperation.

3. Mr. BOSSUYT said that the sponsors had agreed on a number of revisions to the draft resolution. The following new fifth preambular paragraph was proposed:

> "Expressing the hope that the atmosphere for change mentioned by the Special Representative during his last visit to the Islamic Republic of Iran will result in marked relevant improvements in the situation of human rights in the country by the time of his next scheduled visit."

Secondly, the word "allegations" in the sixth preambular paragraph of the previous version was replaced by "reports". Thirdly, the word "murders" in the English version of the following preambular paragraph had been amended to read "killings". Lastly, the following new operative paragraph 7 was proposed:

> "Encourages the Government of the Islamic Republic of Iran to pursue its cooperation with the special procedures of the Commission on Human Rights, and especially with the Special Representative of the Commission on the situation of human rights in the Islamic Republic of Iran."

4. He confirmed that the word "alleged" in operative paragraph 1 had been retained so that Mrs. Palley could continue to sponsor the draft resolution.

5. Mrs. WARZAZI said that she would prefer to insert the proposed new preambular paragraph as a new operative paragraph 6, in which case "Expressing" would be amended to read "Expresses".

6. Mr. BOSSUYT said that such an amendment would be acceptable to the sponsors.

7. Mr. ZIARAN (Observer for the Islamic Republic of Iran) said that he appreciated the Sub-Commission's efforts to amend the draft resolution and had not intended to insult anybody in his previous statement.

8. If the forum he was addressing was a court of law, the members of the Sub-Commission would represent both judge and jury, the draft resolution would reflect the charges against him and he would be acting as his own defence counsel. There would be a presumption of innocence, the rule of law would be respected and the burden of proof would lie with the prosecution. Referring to subparagraphs (b) and (c) of the sixth preambular paragraph of the draft resolution, he submitted that there was no evidence on which his country could be convicted of those charges, whose status had been raised in the new version from "allegations" to "reports". What steps had the prosecution taken to ascertain whether the sources of the charges were reliable? He could call as witnesses for the defence the Special Representative and Special Rapporteurs of the Commission of Human Rights from whose reports he had quoted in his previous statement. Those reports had admittedly contained criticisms but the language was nowhere as harsh as that used in the draft resolution before the Sub-Commission.

9. His country was aware of its shortcomings and was therefore cooperating with the Commission's special procedures and seeking to implement any recommendations. His Government had recently issued a formal invitation to all members of the Sub-Commission to visit the Islamic Republic of Iran and help the authorities to strengthen the system of administration of justice and treatment of offenders. That invitation still stood.

10. He hoped that the members would be guided by their conscience and vote against the draft resolution.

11. Mr. ALFONSO MARTÍNEZ said that he was unable to support the draft resolution and would vote against it, particularly in the light of new operative paragraph 6 which encouraged the Government of the Islamic Republic of Iran to pursue its cooperation with the special procedures of the Commission on Human Rights. If the current human rights situation in that country was the result of cooperation with the special procedures, he saw little point in such cooperation.

12. Mr. CHERNICHENKO said he understood that it was customary to refrain from making statements regarding one's voting intentions in the case of a secret ballot.

13. The CHAIRMAN drew attention to a previous legal opinion which stated that explanations of vote were not in order in the case of secret voting.

14. In reply to a point of order by Mr. BOSSUYT, he agreed that he should not have invited comments after the statement by the observer for the Islamic Republic of Iran. On the other hand, members of the Sub-Commission were entitled to make statements at that point in the proceedings if they so wished.

15. A vote was taken by secret ballot.

16. At the invitation of the Chairman, Mr. Bengoa and Mr. Sang Yong Park acted as tellers.

17. The draft resolution was adopted by 12 votes to 6, with 6 abstentions.

Draft resolution E/CN.4/Sub.2/1996/L.12

18. Mr. BOSSUYT read out a number of amendments which the sponsors wished to make in order to meet the views expressed by several members. In the second preambular paragraph, subparagraph (a), the words "persistence of many" should be deleted and the words "armed forces" should be replaced by the word "government". In the same paragraph, subparagraph (c), the words "renewed outbreak of attacks on the" should be replaced by the words "continued problems concerning". Subparagraph (d) of that same paragraph should be deleted, as well as the third preambular paragraph. In paragraph 1 the word "Condemns" should be replaced by the words "Expresses concern about", and paragraphs 2 and 3 should be deleted, with consequential renumbering of the remaining paragraphs.

19. Mrs. PALLEY recalled that, despite her extensive knowledge of the situation in South Eastern Europe, in the past she had always refrained from speaking and voting at plenary meetings of the Sub-Commission when the situation in Turkey had been considered, following the principle that not only must justice be done, but it must also be seen to be done. Had she not absented herself in order to avoid accusations of bias, she would have deplored the situation in Turkey. On the previous day, however, she had been privately informed that many of her colleagues in the Sub-Commission did not believe her to be independent when Turkey was at issue, implying that she was believed to dance to strings pulled by Cyprus because she acted as a paid consultant to its Government. However, as she did not need to prove her honour to herself or anyone else, she had decided no longer to shed responsibility so as to avoid potential criticism. She could no longer place her egotism before the suffering of persons in Turkey, where there continued to be a systematic pattern of gross violations. For instance, hundreds of journalists were facing trial, and the amendments to Turkish law and the Turkish Constitution announced at the Sub-Commission's 1995 session had not, in reality, resulted in any significant improvement. The situation had deteriorated especially in the past three months, with criminal proceedings being instituted against persons who had merely exercised their freedom of expression without advocating terrorism or the dismemberment of the country. They had merely called for a restructuring of the Turkish Constitution to allow for greater autonomy in the South East of the country and for acceptance of minority rights for individuals belonging to the Kurdish minority. Furthermore, military action had intensified, and the Turkish army did not observe minimum humanitarian standards, ignoring even those human rights which were absolute in times of armed conflict. Admittedly, Turkey faced very serious problems of terrorism, but terrorism was not an excuse for violation of the right to life or for inflicting torture and inhuman treatment - a point which the Sub-Commission ought to reaffirm.

20. In fact, the Turkish Government had not done nearly enough to apply human rights law or to bring the Turkish army, police and prison services under control. Over the past year it had made token gestures to the Council of Europe because membership in it depended on adherence to the European Convention on Human Rights and to the European Union because it had wanted to conclude a customs union agreement. As the Sub-Commission had been informed in 1995, the Turkish Government had issued invitations to the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, but for various reasons which were not the fault of Turkey his visit had not yet taken place. It was, however, important that it should materialize and even more necessary that Turkey should respond to the repeated requests of the Special Rapporteurs on the question of torture and on extrajudicial, summary or arbitrary executions to be invited, since their applications had so far received no positive response.

21. Turkey's distinguished foreign service would no doubt be able to convince the Government that the Sub-Commission's interest in the human rights situation in Turkey was not an insult to Turkey and did not involve ignoring the positive moves which the Turkish Government had made, but constituted a manifestation of the Sub-Commission's continuing interest in the welfare of a major State which had a significant role to play in Europe and in Asia, and in acting as a leader of the Islamic world.

22. Mr. ULUÇEVIK (Observer for Turkey) said that the draft resolution before the Sub-Commission concerned a country which had a secular State structure, a pluralist democracy with free and fair elections, a multiparty system, an orderly transition of power, an independent legislature, an independent judiciary ensuring the rule of law, free and dynamic trade unions, and a free and vibrant press. The text concerned a democratic unitary State which, in the past 10 years, had unfortunately been subjected to a vicious terrorist campaign waged by the Marxist-Leninist Workers' Party of Kurdistan (PKK) with the declared objective of achieving the country's dismemberment at a time when it was forging ahead for more democracy and more human rights.

23. Even a cursory glance at the draft resolution revealed that it had nothing to do with the human rights of the 65 million people living in Turkey. It simply contained elements that could be found in all the propaganda materials of the PKK, and its very essence was flawed with serious factual errors. For example, the last preambular paragraph referred to restrictions imposed by Turkey on the Kurdish population of Iraq in respect of humanitarian aid, in violation of Security Council resolution 688 (1991). It was doubtful whether any member of the Sub-Commission could prove that allegation. He, however, was in a good position to prove the contrary, since his previous assignment had included the post of coordinator of the Turkish humanitarian aid programme to northern Iraq, started in 1993. Since then humanitarian aid worth US$ 37.5 million had been extended; moreover, the presence of the 69 international relief agencies and NGOs currently operating in northern Iraq had been made possible by the cooperation of Turkey. It was therefore difficult to see why the draft resolution referred to Turkey's restriction on humanitarian assistance to northern Iraq, which constituted yet further evidence that there was no problem between Turks and Kurds. Turkish citizens, irrespective of their ethnic origin, lived peacefully and in harmony in Turkey. His Government would not allow that harmony to be disturbed by

the PKK, whose terrorism was the only problem faced by Turkey today. The draft resolution amounted to no less than an attempt to bestow a legal status upon a terrorist group, placing it on an equal footing with a country that was a founding member of the United Nations. It contained no reference to either terrorism or its victims and conveyed the message that "terrorism pays off".

24. Thus action by the Sub-Commission on Turkey was unjust and unwarranted. Adoption of the draft resolution would destroy the existing ground for cooperation between Turkey and the United Nations human rights system and was not compatible with the principles of objectivity, impartiality and non-selectivity. The last-minute amendments introduced did not change the substance of the original text or its message. His delegation trusted the collective wisdom, vision and judgement of the Sub-Commission and expected that the draft resolution would not be adopted.

25. A vote was taken by secret ballot.

26. At the invitation of the Chairman, Mr. Boutkevitch and Mr. Mehedi acted as tellers.

27. The draft resolution was rejected by 12 votes to 9, with 3 abstentions.

Draft resolution E/CN.4/Sub.2/1996/L.13

28. Mr. BENGOA said that the draft resolution was relatively simple, calling for the early establishment of a permanent office of the United Nations High Commissioner for Human Rights to be established in Colombia and welcoming the acceptance by the Government of Colombia of the statement by the Chairperson of the Commission on Human Rights at its fifty-second session. A meeting on the establishment of a permanent office was currently taking place between the delegation of Colombia and the High Commissioner for Human Rights.

29. The sponsors wished to make a number of amendments to the text. In the third preambular paragraph the words "supervising the human rights situation in the country, the supervision to be carried out through" should be deleted. Errors in the Spanish version of the fifth and sixth preambular paragraphs needed to be corrected, while the words "and hopes it will be done as soon as possible" should be added at the end of paragraph 2. Finally, in paragraph 4, the word "monitoring" should be replaced by the word "observing".

30. Mr. GUISSÉ, supported by Mr. EL-HAJJÉ, said that the text did nothing more than to take up what had already been discussed and decided. A meeting was already taking place. Such repetition was valueless and the draft resolution should therefore be withdrawn.

31. Mr. JOINET said that he was disturbed by the idea that the Sub-Commission could no longer discuss a matter merely because it had already been discussed. The fact that a meeting was already taking place did not prevent the Sub-Commission from expressing the hope that it would be concluded successfully. Perhaps it would be better, at the end of paragraph 2, to use the words "encourages the parties to arrive at a solution as soon as possible". While a decision in principle had indeed been taken, there was nothing to show that it would be signed. Moreover, the United Nations High

Commissioner for Human Rights had given no indication that the draft resolution might be inappropriate, and he himself had the impression that there was a general consensus that the proposed arrangements should be positively encouraged. He therefore hoped that Mr. Guissé would not insist that the draft resolution should be withdrawn.

32. Mrs. DAES said that the amendments proposed undoubtedly improved the text. Nevertheless, the situation in Colombia was a special one, given the persistence of internal armed conflict in that country. In her view, what was needed was the granting of assistance to the Government and people of Colombia, rather than the adoption of a draft resolution that closely resembled the corresponding Commission resolution. She looked forward to hearing the comments of the observer delegation of Colombia, which should be useful in helping the Sub-Commission to reach a decision.

33. Mr. GUISSÉ again insisted that the draft resolution should be withdrawn, in view of the ongoing negotiations between the Commission's representatives and the Colombian authorities.

34. Mr. LINDGREN ALVES said he had originally assumed that the draft resolution could be adopted by consensus. Having listened to Mr. Guissé's arguments, he was now convinced that nothing would be gained from seeking the opinion of the observer delegation of Colombia; that the draft resolution served no useful purpose; and that the best course would be the one advocated by Mr. Guissé and Mrs. Daes.

35. Mrs. PALLEY asked whether any members would now be proposing to withdraw the resolutions on Iraq and the Islamic Republic of Iran.

36. The CHAIRMAN said that resolutions, once adopted, could not be withdrawn.

37. Mr. CHERNICHENKO said he would be pleased if all draft resolutions on country situations were dealt with in the way proposed by Mr. Guissé. In his view, the time had come to put the draft resolution to a vote.

38. Mr. JOINET, speaking on a point of order, said that under rule 53 of the rules of procedure, a draft resolution could not be withdrawn once it had been amended.

39. The CHAIRMAN, supported by Mr. ALFONSO MARTÍNEZ, pointed out that the draft resolution had not been amended, but merely revised by its sponsors. They were thus fully entitled to withdraw it.

40. Mr. BENGOA said that a resolution on Colombia adopted by the Sub-Commission at its previous session had led to a statement by the Chairman of the Commission and to an agreement between the United Nations High Commissioner for Human Rights and the Colombian Government. Great circumspection had been exercised in drafting a text on what was clearly a very sensitive issue. Nevertheless, the sponsors believed that the draft resolution did indeed constitute a meaningful follow-up to past actions by the Sub-Commission in that regard, allowing it scope for further action in the future. That was the essential purpose of the draft resolution. The text

urged the Colombian Government to continue the process on which it had embarked the previous year. It dealt clearly yet sensitively with a complex issue, and to withdraw it would be a mistake.

41. Mrs. WARZAZI said that the value of the draft resolution lay in its support for the establishment in Colombia of a permanent office of the United Nations High Commissioner for Human Rights. Many of its provisions were not inconsistent with that support. One option would be to move that its consideration should be deferred. However, if the Sub-Commission really wished to maintain an interest in the progress made in Colombia, it should delete from the draft resolution any provisions that might prejudice the ratification of the agreement. She therefore proposed that the first, second, third, sixth and seventh preambular paragraphs and operative paragraphs 1 and 4 of the existing texts should be retained, and the remainder deleted.

42. Mr. LINDGREN ALVES said that the argument advanced by Mr. Bengoa in justification of the draft resolution was unconvincing; the Colombian Government was a democratic one, which had decided on its own initiative - albeit under some international pressure - to conclude the agreement with the United Nations, and was now preparing to implement it. The draft resolution would be construed not as a stimulus, but as a provocation. Mr. Guissé's proposal was by far the most sensible one. If that proposal was rejected, however, then the only way forward would be to take up Mrs. Warzazi's proposal.

43. The CHAIRMAN said that the sponsors had made it clear that they would not withdraw the draft resolution.

44. Mr. GUISSÉ said that, that being the case, he would move that, under rule 65 (2), no decision should be taken on the sponsors' proposal.

45. Mr. CHERNICHENKO, supporting Mr. Guissé's motion, said that under rule 65 (2) it had priority over that proposal, and should therefore be put to a vote forthwith.

46. Mrs. PALLEY said she hoped Mr. Guissé would withdraw his motion. In the past, members had tended to hide their true positions by invoking procedural rules. They were fully entitled to do so; yet it was not good practice for members to avail themselves of that right. Latterly, the tendency had been to vote on the merits of an issue. A return to the practices of past years would be regrettable.

47. Mr. ALFONSO MARTÍNEZ said that since Mr. Guissé's motion had priority over any proposed changes or amendments to the text, the Sub-Commission should now hear any further speakers on that motion, before proceeding to a vote by secret ballot.

48. Mr. CHERNICHENKO, taking up Mrs. Palley's point, said that he too was opposed to abuses of rule 65 (2). In the present case, however, it was not a question of "hiding". Mr. Guissé was merely making the point that it was futile to take a decision on the draft resolution, since the matter was already being dealt with by a higher body.

49. Mr. JOINET proposed that all references to the permanent office of the United Nations High Commissioner for Human Rights should be deleted from the draft resolution. Mr. Guissé's arguments would then lose their force.

50. Mr. GUISSÉ said that Mrs. Palley had been most ill-advised to accuse him of hiding behind the rules of procedure. Those rules, whether substantive or formal, must be complied with.

51. On the question of Mr. Joinet's proposal, he said that he had no objection thereto. The consequence would be, however, that consideration of the draft resolution would have to be deferred until the following day, pending a decision on which provisions were to be deleted.

52. Mr. ALFONSO MARTÍNEZ and Mrs. WARZAZI also took issue with Mrs. Palley: members were fully entitled to invoke the rules of procedure.

53. The CHAIRMAN proposed that consultations should be held between Mr. Guissé and the sponsors, with a view to making a new draft text available, if possible in time for the following morning's meeting.

54. Mrs. WARZAZI said she hoped that account would be taken of her own proposals in the course of the consultations.

55. Mrs. PALLEY said it had not been her intention to accuse Mr. Guissé - for whom she had the utmost admiration - of hiding behind the rules. She had been referring to a practice that had commonly been adopted in the more distant past. She was most grateful to him for agreeing to consult with the sponsors.

56. The CHAIRMAN said that if there was no objection, he would take it that the Sub-Commission wished to postpone its consideration of draft resolution E/CN.4/Sub.2/1996/L.13 until its next meeting.

57. It was so decided.

Draft resolution E/CN.4/Sub.2/1996/L.14

58. Mrs. DAES said that she commiserated with the elderly people, children and women of Iraq who were deprived of food and medicines. She thus supported the provision of humanitarian aid to the people of Iraq and wished to join the sponsors of the draft resolution.

59. The CHAIRMAN drew attention to an error in the text: Mr. Diaz Uribe, not Mrs. Forero Ucros, should be listed as a sponsor of the draft resolution.

60. Mr. MAXIM and Mr. GUISSÉ also asked to join the list of sponsors.

61. Mrs. WARZAZI thanked all those members who had sponsored the draft resolution. She hoped that, as in previous years, it could be adopted by consensus.

62. Draft resolution E/CN.4/Sub.2/1996/L.14 was adopted without a vote.

63. Mr. WEISSBRODT said he had joined the consensus on the draft resolution because he considered that it reflected important concerns regarding the plight in which children and others in Iraq found themselves as a result of the embargo. In his view, however, the resolution, while important, might not be entirely complete. Had he been further consulted, he would have favoured amending the relevant passage of the draft resolution to read: "... the serious consequences which maldistribution of food supplies by the Government of Iraq as well as the embargo imposed on Iraq for the past six years are having ...".

64. Mr. CHERNICHENKO asked for a clarification. Had the draft resolution been adopted "without a vote" or "by consensus"? Technically, the two were one and the same. Nevertheless, a slight nuance was involved.

65. Mr. ALFONSO MARTÍNEZ said that the difference was that there was no reference to adoption "by consensus" in the rules of procedure.

66. Mr. BOSSUYT said that the expression "by consensus" was colloquial. The technically correct formulation was "without a vote".

67. The CHAIRMAN said that the formulation "without a vote" would be the one used in the report.

ELIMINATION OF RACIAL DISCRIMINATION

(a) MEASURES TO COMBAT RACISM AND RACIAL DISCRIMINATION AND THE ROLE OF THE SUB-COMMISSION (agenda item 5) (continued)

68. The CHAIRMAN said that, regarding the joint meeting of officers of the Committee on the Elimination of Racial Discrimination and of the Sub-Commission, the Chairman of the former had originally announced that the secretariat of that Committee would prepare a report on the meeting for the Sub-Commission. However, the secretariat of the Sub-Commission had now been informed that the secretariats of the two bodies were to meet to prepare the report on the joint meeting. The report would then be distributed to members.

69. Mrs. WARZAZI said she had been informed that decisions taken were not valid unless they had the full support of members of the Sub-Commission.

70. The CHAIRMAN said he could not answer for the procedures that applied in the Committee on the Elimination of Racial Discrimination. As far as the Sub-Commission was concerned, be confirmed that decisions of its officers could be considered only as recommendations.

REVIEW OF FURTHER DEVELOPMENTS IN FIELDS WITH WHICH THE SUB-COMMISSION HAS BEEN CONCERNED (agenda item 4) (continued)

71. The CHAIRMAN said it was not yet clear whether a draft resolution would be submitted on the question of Peru, and, if so, under which agenda item it would come.

72. Mr. ALFONSO MARTÍNEZ said that the procedure of the Sub-Commission was quite clear that any draft resolution or decision on alleged human rights violations in any specific country had to be considered under agenda item 6.

73. Mrs. DAES said she understood that consideration of agenda item 6 had been concluded. She wished to know whether the officers of the Sub-Commission had asked for the consent of the members to extend the deadline for the submission of a draft resolution concerning one country.

74. The CHAIRMAN said that when the agenda was drawn up, it had been agreed that there should be flexibility on resolutions which were likely to be the subject of prolonged consultations, notably those on Guatemala and Peru. It was still not clear whether any resolution on Peru would be submitted under agenda item 6 or agenda item 4. It was quite acceptable to submit a resolution on a particular thematic issue relating to a particular country under the relevant agenda item; it was for members to decide which agenda item was appropriate for a particular draft resolution.

75. Mr. ALFONSO MARTÍNEZ said that he was not aware of any negotiations on a draft resolution on Peru. He asked the Chairman to consider very carefully whether there had ever been a draft resolution on alleged human rights violations in a specific country which had appeared under any other item than agenda item 6; a dangerous precedent would be set if such draft resolutions did not continue to appear under agenda item 6.

76. Mr. JOINET said he was one of the possible co-sponsors of the draft resolution on the question of Peru, which would be submitted under agenda item 4, in conformity with the decision of the Sub-Commission at its previous session. He had spoken at the meeting of the Sub-Commission on 24 August 1995 about the difficulty of addressing a question such as the prevention of racism without mentioning specific countries, and it had been accepted that the consideration of human rights violations was not limited to agenda item 6.

77. Mr. URRUTIA (Observer for Peru) recalled his earlier detailed statement to the Sub-Commission on the positive developments in legislation to protect and promote human rights in Peru. He felt he had made it absolutely clear that the current human rights situation in Peru was very different from the situation a year ago. On the previous day, he had announced the adoption of a new law setting up a commission for the amnesty of those convicted of terrorism or treason. In the light of the precise and documented facts made available to the international community, his delegation did not believe any action by the Sub-Commission on the human rights situation in Peru was warranted, and hoped that no such action would be taken. Furthermore, he wished to clarify that there had been no negotiations with respect to the drafting of a resolution on the human rights situation in Peru.

78. Mr. JOINET said that there may have been no negotiations as such, but that he had handed over a draft resolution in good faith to be forwarded to the Government in Lima.

79. Mr. URRUTIA (Observer for Peru) confirmed that Mr. Joinet had handed him a draft resolution, which he had forwarded to his Government in Lima, but that

did not imply that any negotiations of any sort had been entered into. He could receive instructions from his Government at any time, but for the moment he repeated that, in the light of the very positive developments in the human rights situation in Peru, any resolution of any description was unwarranted.

80. Mr. ALFONSO MARTÍNEZ, in response to Mr. Joinet's earlier statement, said the fact that a country was mentioned in a discussion on racial discrimination did not mean that a resolution on that country had to be submitted under the item on racial discrimination. In the final sentence of paragraph 338 of the Sub-Commission's 1995 report to the Commission (E/CN.4/1996/2), which was separated from the text of the decision itself as it was a procedural matter, it was stated that the Sub-Commission had decided to postpone consideration of draft resolution E/CN.4/Sub.2/1995/L.47 until the forty-eighth session; it had not been decided to consider the amnesty law or any other aspects of human rights in Peru under agenda item 4. He repeated his contention that the subject of the human rights situation in specific countries should be discussed under agenda item 6.

81. Mr. JOINET suggested that rather than discuss a non-existent problem, as no resolution had yet been submitted, he should consult further with the parties concerned to see if he could come back with an honourable proposal at the next meeting.

82. Mrs. GWANMESIA said that it would be contrary to the Sub-Commission's procedure to return to agenda item 6, with the exception of the draft resolution relating to Colombia. Any resolution concerning Peru could therefore not be included under that item.

83. Mr. CHERNICHENKO agreed with Mrs. Gwanmesia, and added that he was categorically opposed to using any item other than agenda item 6 for the consideration of resolutions on specific countries.

84. Mrs. DAES said that constructive dialogue in the Sub-Commission had to take place within reasonable time-limits and in the interests of transparency no draft resolution could be submitted on Peru after the deadline expired later in the day.

85. Mr. FAN Guoxiang agreed with the previous speakers on the need to discuss country-specific draft resolutions under agenda item 6. He then pointed out that as so far there had been no response from the Government of Peru to Mr. Joinet's initiative, there could hardly be talk of a dialogue, which needed the participation of two sides.

ORGANIZATION OF WORK (continued)

86. The CHAIRMAN announced that Mr. Comba of the Centre for Human Rights, would address the Sub-Commission on the question of insurance coverage for members.

87. Mr. COMBA (Centre for Human Rights) said that the United Nations did not provide insurance for experts and consultants, but only for its own staff. In some instances the Organization had managed to broker an insurance arrangement with a private company for experts attending meetings lasting 10 weeks or more

in Geneva, deducting the cost from their per diem. Efforts were being made to extend that arrangement to other meetings, but the insurance services in the Palais were not interested in providing the kind of insurance the experts were seeking. No answer had yet been received from Van Breda in Brussels, which had been approached during the last week. Normally, experts were expected to make their own private arrangements for medical and accident insurance; it was partly in consideration of that that they received the per diem plus 40 per cent. That had been the practice for many years and any change would obviously take time. Efforts would be made to see what could be done but it was not possible to guarantee their success.

88. Mr. ALFONSO MARTÍNEZ said he regretted the total lack of progress made since the issue had first been raised a year earlier. He asked the secretariat to inform the members at the very beginning of the next session about the results of their inquiries. He also suggested that other experts attending short meetings in Geneva should be approached to see if there were enough potential clients to be of interest to insurance companies.

89. Mr. COMBA (Centre for Human Rights) said that he thought it would be a very good idea to refer the issue to the central administration of the United Nations so that a global approach could perhaps be taken to the problem.

The meeting rose at 6 p.m.

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COMMISSION ON HUMAN RIGHTS

SUB-COMMISSION ON PREVENTION OF DISCRIMINATION AND PROTECTION OF MINORITIES

Forty-eighth session

SUMMARY RECORD OF THE 22nd MEETING

Held at the Palais des Nations, Geneva,
on Wednesday, 21 August 1996, at 10 a.m.

Chairman: Mr. EIDE

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THE REALIZATION OF ECONOMIC, SOCIAL AND CULTURAL RIGHTS

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Any corrections to the records of the public meetings of the Sub-Commission at this session will be consolidated in a single corrigendum, to be issued shortly after the end of the session.

GE.96-13572 (E)

The meeting was called to order at 10.10 a.m.

CONSIDERATION OF DRAFT RESOLUTIONS AND DECISIONS UNDER AGENDA ITEM 6

Draft resolution E/CN.4/Sub.2/1996/L.13 (The human rights situation in Colombia)

1. Mr. BENGOA referred to a violent period in the history of Colombia, in the 1950s, which had inspired such well-known authors as Fals Borda and García Márquez. In order to defend themselves against so much violence, the peasants had established self-protection brigades and some sort of autonomous territories. It was such measures of self-defence that were behind the creation of the armed opposition groups currently operating throughout the country. Many years later, the major Colombian political parties, which had been engaged in a pitiless struggle, had agreed to take turns in power until the democratic election process could be reintroduced. The Colombian democratic system was very solid and had enormous potential, and democratic institutions worked well and in accordance with the Constitution.

2. In that context, it was difficult to understand why violence had resurfaced in the country about 15 years earlier and why it was assuming increasingly alarming proportions. The Colombian Revolutionary Armed Forces, one of the oldest guerrilla movements in the world, had revived, and 60 other armed groups had made their appearance. Violence linked to the drug traffic had added a destabilizing element to Colombian society. The situation was therefore complex and could not be settled by yet another resolution. In 1995, according to several 1996 reports from different sources, more than 150 persons had disappeared while being detained by the armed forces, police or paramilitary groups, and 10 people died every day. According to the Andean Commission of Jurists, 65 per cent of those acts were committed by forces linked to the Government and 35 per cent by the guerrillas. A large number of deaths were reportedly due to the "social cleansing" under way, particularly against the homeless, indigenous persons and others living in poverty. More than 500,000 people had allegedly been displaced, particularly in the Urabá region. In that regard, he cited document E/CN.4/Sub.2/NGO/9, which described one particularly striking such case. In January 1995, the Government had invited the thematic rapporteurs to come to Colombia, and the Special Rapporteur on extrajudicial, summary or arbitrary executions had concluded that the human rights situation there was alarming. The Government was trying not to remain impassive. President Samper had acknowledged the responsibility of State officials for the disappearance of 107 persons in Trujillo, Cauca Valley, and had ordered their dismissal. The attention being focused on Colombia was in no way inspired by a desire to criticize, but on the contrary by sympathy.

3. Draft resolution E/CN.4/Sub.2/1996/L.13, a moderately and carefully worded text, recalled the statement made by the Chairperson of the Commission on Human Rights on 23 April 1996, calling for the earliest possible creation of an office in Bogotá of the High Commissioner for Human Rights. It also dealt with the consequences of the war and strongly denounced the practices of kidnapping and hostage-taking being carried out by armed opposition groups. It recognized Government efforts to reach a lasting peace and protect human rights.

4. With regard to the action of international machinery in a given country, he did not agree that it could serve only to strengthen the mechanisms of repression, rather than lead to greater respect for human rights, and to make the internal situation even more difficult. On the contrary, as a Chilean, he himself had observed the effectiveness of such machinery. He therefore did not doubt the usefulness of an office of the High Commissioner for Human Rights in Colombia. Nevertheless, its duties still had to be specified, the main outstanding question being the procedure for considering complaints. The office should receive complaints from individuals, because it was a fact that

the victims of human rights violations did not dare to come before the competent judicial bodies; that would enable the office to bring certain situations to the Government's attention and thereby contribute to its efforts to protect the rights of the population. The draft resolution, which was the result of discussions with representatives of the Colombian Government and had been drafted with the help of the Colombian expert, was intended to accelerate the establishment of the Office of the High Commissioner, and he found it difficult to understand the criticisms directed against it. The agreement to establish the office had still not been signed, and if that agreement were unfortunately not finalized, the draft resolution would then have been fully justified.

5. He regretted that the text could not be adopted by consensus, which was why the sponsors had decided to withdraw it. He formally asked that his statement should be duly reflected in the summary record of the meeting and that the full text of the draft should be reproduced in the Sub-Commission's report.

6. Mr. CASTRO-GUERRERO (Observer for Colombia) thanked the experts for their interest in the human rights situation in his country and expressed appreciation to Mr. Bengoa for his excellent analysis of the conflict there. He welcomed the sponsors' decision to withdraw the draft text. That decision would certainly help to foster the already very positive climate of the negotiations between the High Commissioner for Human Rights and the representatives of the Colombian Government on finalizing the agreement to create a Bogotá office of the High Commissioner. Those negotiations should conclude on 21 August. The office would provide a vehicle for cooperation in the framework of which the various parties could arrive at solutions to the conflict as soon as possible. It would facilitate cooperation in identifying the factors causing the violence as well as more effective action to eliminate those factors. The Colombian Government had spared no efforts to ensure that the office opened promptly.

7. The decision not to consider a resolution on Colombia helped to consolidate the crucial internal efforts under way to eradicate violence. He thanked the members of the Sub-Commission for their understanding and spirit of cooperation, which encouraged democratic Governments committed to the noble cause of human rights.

8. The CHAIRMAN announced that draft resolution E/CN.4/Sub.2/1996/L.13 had been officially withdrawn.

9. Mr. GUISSE said that, as the human rights situation in Colombia was being considered by other bodies, it was in order to avoid duplication that he

agreed to the withdrawal of the draft text. It was for reasons of form and not of substance. It remained crucial that human rights violations in Colombia should be condemned.

10. Mr. CHERNICHENKO thanked Mr. Bengoa for his in-depth analysis of the situation in Colombia and for having agreed to withdraw the draft resolution, which, as Mr. Bengoa himself had said, would not have solved the problems of human rights there.

11. Mr. ALFONSO MARTINEZ welcomed the spirit of compromise shown by the sponsors of the draft and by the representatives of the Colombian Government. A debate that did not result in the adoption of a resolution could sometimes be more useful than another resolution on the same question. As was customary, the text of the draft resolution would be reproduced in the report.

12. The CHAIRMAN said that the Sub-Commission had therefore concluded its consideration of draft resolutions under agenda item 6.

THE NEW INTERNATIONAL ECONOMIC ORDER AND THE PROMOTION OF HUMAN RIGHTS

(a) THE ROLE AND EQUAL PARTICIPATION OF WOMEN IN DEVELOPMENT (agenda item 7) (continued)

THE IMPLEMENTATION OF THE HUMAN RIGHTS OF WOMEN (agenda item 11) (continued) (E/CN.4/Sub.2/1996/20, E/CN.4/Sub.2/1996/NGO/18, E/CN.4/Sub.2/1996/53 and Add.1 and 2, E/CN.4/Sub.2/1996/9, E/CN.4/Sub.2/1996/13)

13. Mr. TEITELBAUM (American Association of Jurists), said that limiting the speaking time to five minutes did not do justice to the importance of the two items under consideration, and under the circumstances he preferred not to make a statement.

14. The CHAIRMAN said that he sympathized with the speaker and greatly regretted that the financial situation of the United Nations did not permit the Sub-Commission, or for that matter any other body, to meet for long enough to give speakers the necessary speaking time.

15. Mrs. LACROIX (World Organization against Torture) said that analysis of some national legislation confirmed that women were the victims of discrimination in the administration of justice, in that they did not enjoy the right to protection under the law on an equal footing with men. That discrimination contributed to the perpetuation of physical, psychological and sexual violence against them, both in the family and in society.

16. In Bulgaria, under the Code of Criminal Procedure an act of aggression committed by a family member did not constitute grounds for prosecution by the State unless it resulted in grave injury, while such an act committed by a stranger was liable to prosecution even if it resulted in lesser injury. In Peru, following the application of anti-terrorist legislation, innocent women had been imprisoned and raped by their jailers during detention. Since the adoption of the amnesty law legalizing impunity for the perpetrators of crimes committed between May 1980 and June 1995, those women, who were currently at liberty, were unable to press charges against those guilty. In Pakistan, the testimony of a woman in a rape case, whether as the victim or not, had no legal weight as evidence for application of the maximum punishment. In Iran, the penalties provided for by the new Criminal Code of November 1995 included 74 lashes for any woman not respecting the dress code. In Nigeria, the marriage of young girls was authorized by law, and sexual relations with a girl under 13 years of age were punished only if they were extramarital. In Uganda, the law on begging allowed women to be sentenced for vagrancy, considered as prostitution in disguise, while their clients went unpunished.

17. Violence of all sorts against women and the girl child was almost becoming legalized in certain countries. To combat it, it was imperative that States should condemn it strongly and not invoke considerations of customs, tradition or religion to shirk their obligation to protect human rights and punish those responsible for such acts. The Sub-Commission should continue its consideration of the human rights of women and the girl child under each of the relevant items of its agenda.

18. Mrs. PARKER (International Educational Development) said that many countries, both developed and developing, had established programmes to address women's rights, including South Africa, Canada, the Philippines, Cuba, Chile, Argentina and Greece. That was not the case of the United States, where the economic and social situation of women had not only failed to improve but had worsened considerably, especially for women on the bottom rungs of the economic ladder. The new Welfare Bill represented the final blow to women and children in a country which already had the highest rate of female and child poverty in the developed world.

19. Other countries, too, showed little intention of improving the status of women. In some cases that was because Governments occupied territories against the wishes of the people and viewed any improvement in the status of women as a threat. In the Moluccas, which were still occupied by Indonesia, the Indonesian authorities ignored the social needs of women, especially in the areas of housing, medical care, employment and education. Even women without children had no employment or only menial labour opportunities, and those with children had both to raise their children and to produce food on small farm plots without compensation. Similar situations existed in Chinese-occupied Tibet and Indian-occupied Kashmir.

20. Some Governments argued that women's rights should be subordinated to cultural values, hence the frightening numbers of reservations to the Convention on the Elimination of All Forms of Discrimination against Women. That argument was unsound, as in all regions of the world, the oppression of women was the result of male-dominated cultural values. In Iran, the oppression of women went far beyond any widely-held cultural or religious traditions. The contrast in the treatment of women between the two competing political power bases, one in Tehran and one in exile, was striking. Women were the victims of grave violations of their rights, and their oppression was one of the main instruments used by the Government to reinforce its power. They were virtually absent from all political and government posts. By contrast, they held more than 50 per cent of the seats In the opposition Parliament and 50 per cent of the posts in the opposition army. It was therefore not surprising that the regime had directly attacked those women, the most recent case being the murder of Mrs. Rajabi in Istanbul.

21. Regarding the question of rape in time of war, which was the subject of the report issued as document E/CN.4/Sub.2/1996/26, the Special Rapporteur stated in her conclusions that she intended to address whether rape should be recognized as a form of torture, a war crime and a crime against humanity (para. 87). Rape was already considered a war crime and a crime against humanity, and had been since the Treaty of Versailles. The real question was how to implement the relevant standards, how to punish those guilty outside the framework of international tribunals and how to obtain compensation for the victims.

22. Mr. KWAN JONG SUNG (Liberation) said that violence against women had still not been eradicated, and that, especially in Asia, various types of sexual exploitation continued into the present. For example, a number of rapes of young girls or girl children had been reported in the Philippines, and in most cases the suspects were Japanese. Japanese men, who did not abuse young Japanese girls, believed they were allowed to commit sexual abuse against young girls in other Asian countries. That notion came from the fact that the Japanese Government had not yet settled the problem of atrocities

committed by Japan in the past, including the sexual exploitation of women by the army during the Second World War.

23. Thus, for example, the cases of Chamorro and Korean women who had been shut up in "comfort stations" on the island of Guam had never been examined by the Japanese Government and those responsible had never been tried or punished. It should also be pointed out that the Japanese Government had in its possession a large number of documents on those and other similar cases but refused to turn them over, not even to the Special Rapporteur on violence against women. In so doing, the Japanese Government was not only denying the truth but was also encouraging the repetition of such acts of violence. The Sub-Commission should urge Japan to recognize its responsibility as a State and to allow public access to all the relevant documents at its disposal.

24. Mrs. SACKSTEIN (International Abolitionist Federation) said that, while women's rights were integrated into the Sub-Commission's agenda, they were much less integrated into the reports which the Sub-Commission had before it. Sub-Commission resolution 1992/4 had moved women's rights out of the ghetto and on to the human rights agenda. Much remained to be done, however; women's rights had to be promoted at the national level, not only in legislation but at all levels of society. The Sub-Commission should continue its pioneering work by proposing that the position of focal point/special adviser on women in the Centre for Human Rights should be strengthened so as to contribute more effectively to the work of the Division for the Advancement of Women.

25. Mrs. Chavez's study on systematic rape, sexual slavery and slavery-like practices in wartime would provide guidelines to deal with the issue of wartime rape as a war crime and would facilitate compensation for the victims. It would also help the work of the war crimes tribunals and perhaps contribute to the creation of a permanent international war crimes tribunal.

26. Concerning the reservations made by States parties when ratifying the Convention on the Elimination of All Forms of Discrimination against Women, she called on the Sub-Commission to take into account the proposals appearing in paragraphs 10 et seq. of document E/CN.4/Sub.2/1996/20. The Sub-Commission

should contribute to the United Nations Decade for Human Rights Education by making it clear in all classrooms of the world that the violation of women's human rights was indeed a violation of human rights.

27. Mrs. BOREIL (Inter-Parliamentary Union - IPU) said that the commitments undertaken at the major intergovernmental conferences constituted commitments by States. One of the branches of the State, parliament, played an essential role in the adoption of the legislation and the budgets needed to carry out the programmes envisaged by Governments for following up on international agreements. It was for that reason that the IPU had participated in the preparatory process for all the recent world conferences and was involved in their follow-up. In September 1996, one year after the Fourth World Conference on Women, the IPU would meet in Beijing to study the means for promoting greater respect and protection of human rights in general and women's and children's rights in particular. The IPU would also hold an in-depth debate on the question of women as victims of poverty and extreme poverty and key players in combating poverty.

28. The Convention on the Elimination of All Forms of Discrimination against Women had been the subject of numerous reservations, with considerable consequences, and the IPU called on parliamentarians to verify the soundness of those reservations and their compatibility with the object and purpose of the Convention and to use their right to introduce legislation to encourage their Governments to withdraw them. Generally speaking, the IPU was taking increased account of the "gender dimension" in all its work. In May 1996 the Secretary-General of the IPU had transmitted to all national Parliaments the model legislation on violence within the family and within interpersonal relationships, prepared by the Special Rapporteur on violence against women. The IPU had also been involved for several years in promoting women's participation in public life. At the present time, it was analysing the findings of a world survey on three topics: women in political parties; the electoral process; and women's role in national Parliaments. By working for a more balanced participation of women and men in public life, the IPU hoped not only to guarantee women a right to which they were entitled but also to help society as a whole to benefit from all the talents at its disposal and thereby to encourage the emergence of a truly representative democracy. The IPU had also organized debates and round tables on the positive role the media could play in that regard.

29. Mr. WLASIC (Latin American Federation of Relatives of Disappeared Detainees - FEDEFAM) said that the globalization of the economy had led to economic adjustment policies being imposed on developing countries. Those policies were reflected in the concentration of wealth, on the one hand, and the abandonment or reduction of social protection measures on the other, at the expense of the most vulnerable groups of society, as well in a reduction of economic activity and therefore an increase in unemployment and reduced consumption. The phenomenon of foreign debt, for which States had privatized various public services, basic industries and sources of energy production in order to finance repayment, also merited particular attention. Likewise, the very negative influence of multinational companies, and the effects of economic embargos, should be dealt with. Those problems entailed massive and systematic violations of human rights, whether economic, social and cultural

(the right to education, work and health) or civil and political (the right to freedom of assembly and association, the right to be protected against illegal and arbitrary detention and the right to access to justice).

30. For all those reasons, FEDEFAM called on the Sub-Commission to undertake a study on the relationship between the international economic order and structural adjustment programmes and the protection, respect and promotion of human rights as enshrined in the international instruments.

31. Ms. SILAWAL (International Progress Organization) said that the new international economic order was based on certain assumptions, such as the mobility of global finance and the idea that development in some of the poorest countries of Asia and Africa would come from a cooperative relationship between local entrepreneurs and international financial institutions and from a diminished role of the State. The supervision of the pace and nature of economic development once exercised by Governments would increasingly be vested in international agencies such as the International Monetary Fund (IMF) and the World Bank. There was also a belief that the new international economic order would allow progress with a human face and that women would play a recognized role in the development process.

32. Those assumptions did not take into account the rigid social and religious patterns prevalent in many developing countries. Many societies still believed that women's role was in the home, or invoked religion to justify their subservience to men. Women were being deprived of the right to work, as could be observed, for example, in the Taliban-controlled regions of Afghanistan. It was often believed that the role of women in economic decision-making was a function of the level of economic development, but that was not the case. In South Asia, Cuba and India, for example, women's participation in economic and political activity was significant, while in some of the wealthy countries it was minimal. In fact, the role that women played in economic development was a direct function of the attitudes of different societies. Change would require not only economic or political steps but also a determined educational effort to convince those who refused on the grounds of ideology or religion to grant women their rightful place.

33. Ms. HABIB (World Muslim Congress) said that despite the progress constantly being made in the protection of human rights, much remained to be done before humanity could be freed from the atrocities committed by various so-called democratic Governments in different parts of the world. Her organization drew the Sub-Commission's attention in particular to the humiliation, abduction, violence and rapes inflicted on the women and girls of Kashmir by the Indian military and paramilitary forces. Examples of such violence abounded, and the fact was that the Human Rights Commission of India, which was said to have achieved impressive results, was not empowered to investigate violations of human rights committed by the security forces, even if it were willing to do so. If there were even a semblance of respect for democracy and law in India, the prisons would be filled with Indian soldiers and politicians responsible for raping Kashmiri women. And if that were not the case, it was because the rape of those women was considered to be not a punishable act but an instrument of repression.

34. She urged the Special Rapporteur on systematic rape, sexual slavery and slavery-like practices during periods of armed conflict to include in her next report the rape of Kashmiri women and girls by the Indian occupation army. Why should an objective observer shy away when the criminals belonged to a powerful country? She appealed to the Sub-Commission to intervene in order to stop the crimes against humanity in Indian-held Kashmir.

35. Mrs. HIGGINS (International Commission of Jurists) said that the facts surrounding the systematized abduction of more than 200,000 women, some of whom were still children, by the Japanese Imperial Army in order to use them as sexual slaves during the period 1932 to 1945 was now well documented.

During those years, those women had not only been raped on a daily basis but also beaten and tortured. There was no doubt that the violence to which they had been subjected constituted human rights violations, and she welcomed the progress made in dealing with the problem. However, even though the Japanese Government had admitted its responsibility in 1993, it still had not only a moral but also a legal obligation to provide reparation to the "comfort women". It should provide full disclosure of all information in its possession on the operation and maintenance of the "comfort stations"; establish an administrative forum for dealing with the victims' claims; and make an immediate interim payment of $40,000 to all known victims. The actions taken by the Government in providing for compensation through the Asian Peace and Friendship Fund for Women were aimed at releasing Japan from its responsibility as a State and in no way represented an effective response to the victims, which would enable their dignity and honour to be restored.

36. Mrs. SRIVASTAVA (International Institute for Non-Aligned Studies) said it was universally accepted that every person had the right to a decent standard of living that allowed him to maintain himself and his family in dignity. The prosperity of colonial empires had been based on the denial of that right, but the colonized peoples had awakened the conscience of the world, and the battle against colonialism had become the common struggle of all humanity. Today it could be said that the international community had virtually demolished the last vestiges of colonialism, but it was imperative not to allow another form of colonialism to take hold. Only a new international economic order that took into account the disparate needs of peoples at different levels of development could ensure a balanced improvement in living standards. Economic prescriptions that might work well in developed countries and those with small populations could have disastrous consequences on impoverished nations. Products and technologies suitable for developed countries could wreak havoc on less developed economies. Similarly, the transfer and sale of possibly outmoded technologies might benefit the countries of origin, but those technologies risked altering the social fabric of the beneficiary countries and causing tensions between the sources of production as well as contributing to the emergence of products that did not meet the basic needs of the population. The new international economic order should be rooted in free trade and cooperation as long as the specific needs of different countries were always taken into account, so as to prevent irrelevant goods, services and technologies from being dumped on poor countries for the sole benefit of the producers.

37. Poverty and destitution once associated only with third world countries were today a global phenomenon afflicting people in developed and developing countries alike. The number of people living in absolute poverty was estimated at 1.5 billion. That such a large number of people continued to be denied their basic minimum needs was an indictment of the organization of the world economy and the utilization of resources. Foreign assistance played a crucial role in helping developing countries to combat poverty, but aid flows had stagnated since the mid-1980s. The countries that could provide assistance seemed to be turning increasingly inward, instead of fulfilling their role as leaders in combating global poverty. If the new international economic order were to be a catalyst for promoting human rights, the players would have to focus as much on education as on advertising; as much on population control as on product quality control; as much on building the confidence of the poor and underdeveloped countries as on building the confidence of shareholders.

38. Ms. MUNSHI (Indian Council of Education) said that the development of women's movements throughout the world over the past two decades had drawn the attention of Governments to the problems of women and had encouraged strategies aimed at strengthening women's capacities to participate. Despite the concerted efforts at the national and international levels, however, the situation of women since the Nairobi Conference of 1985 had deteriorated. Some of the earlier problems had intensified, while new problems had also

emerged. In the third world, poverty and illiteracy were reflected, inter alia, in growing violence against women, the rape of children, female foeticide and growing unemployment among women. The growth of fundamentalism and communalism was one of the main obstacles to an improved status for women. The prevalent ideology most often defended the interests of the patriarchy, and women were deprived of their basic rights. Women's rights were human rights. Structural adjustment policies and the liberalization process had further contributed to weakening women's role in the economy.

39. The task confronting the women's movement was to combat conservative policies, fight for an egalitarian society and create an environment conducive to women's leadership in the political sector. She urged the Sub-Commission to monitor the implementation of the Beijing Platform for Action by ensuring the establishment of the necessary national machinery and institutions and the implementation of the Convention on the Elimination of All Forms of Discrimination against Women.

40. Mrs. MOHAMMADI (International Association of Democratic Lawyers) denounced the misogyny of the Iranian regime and the institutionalized sexual apartheid in that country. Girls could be married at age nine, husbands did not have to inform their wives of their decision to divorce, and women could neither work without the written consent of their husbands nor undertake certain fields of study. On 16 May 1996 the Iranian Parliament had passed a law by which women who were "inadequately veiled" in public places could be sentenced to prison terms or fined, and a religious edict had been issued against women riding bicycles. In the name of a distorted form of Islam, women were stoned and whipped in the street and tortured and raped in prison. Such inhuman practices should be vigorously condemned by the Sub-Commission. Hope was not, however, dead among Iranian women, as testified by the active role they played in the resistance movement. The "charter of fundamental freedoms for the Iran of tomorrow", proclaimed on 21 June 1995 by Maryam Radjavi, President-elect of that movement, stated that women should enjoy their social, political and cultural rights on an absolutely equal footing with men.

41. Mr. ROSSI (International Association for Religious Freedom) said that there were many areas where discrimination continued between men and women, including violence against women, especially during times of armed conflict. The systematic rape by the Serbian army of more than 20,000 Muslim women in Bosnia was an especially odious example. Religious extremism was one of the obstacles to equal rights between men and women. The Beijing Platform for Action recognized that religious extremism could have a negative effect on women and lead to violence and discrimination. He mentioned several countries where such extremism brought about violations of the rights of women. In Nepal, women were the victims of grave forms of discrimination because of certain religious traditions. In Israel, the religious law imposed by the authorities of orthodox Judaism resulted in discrimination concerning marriage and divorce.

42. Religious extremism was particularly dangerous when the political regime was based on the beliefs of just one religion. In Saudi Arabia, for example, women were treated as second-class citizens and their legal rights were different from those of men. It was not acceptable that a State Member of the United Nations continued to violate the rights of women in so systematic a fashion and that the Organization did not dare to intervene publicly to defend the victims. In Iran as well, the extremist vision of the official religion made it very difficult for women to participate in public life. In Algeria, the fundamentalists wanted to impose their reactionary concept of the religion by force. United Nations bodies should fully support the struggle of men and women to establish in their country a rule of law that recognized the equality of women's rights. The leaders of the major religions should abandon all outmoded dogma that was contrary to the great principles of justice, liberty and love which constituted the essence of religion. The Sub-Commission should

also not cease to be concerned about countries where flagrant and systematic violations of the rights of women, inspired by religious extremism, persisted.

43. Mr. NASEEM (International Islamic Federation of Student Organizations) said that for nearly half a century the people of the State of Jammu and Kashmir had been suffering the effects of the Indian economic policy, which was aimed at making it totally dependent on India on the economic and political levels.

44. Interrupted by the CHAIRMAN, who questioned the relevance of his statement under agenda item 7, he said that a new international economic order could be based only on a non-conflictual context and that it was in the enlightened interest of India, Pakistan and the world that the Kashmir issue should be settled according to the wishes of the Kashmiri people.

45. Mr. TOTSUKA (International Fellowship of Reconciliation) said that his organization had been carefully monitoring the consequences and causes of violence against women in armed conflicts. It had recently received distrubing information on that subject, including information on Central Africa. It drew particular attention to the question of military sexual slavery in wartime, which was considered in report E/CN.4/1996/53/Add.1. As stated in paragraph 134 of that report, the creation of the Asian Peace and Friendship Fund for Women from private contributions was certainly an expression of the Japanese Government's moral concern for the fate of "comfort women", but it must be understood that that did not vindicate the legal claims of those women under public international law. It had also to be understood that the great majority of the victims refused to be compensated by the Fund. He urged the Japanese Government to listen to the victims in order to find a solution acceptable to them and to consider seriously the recommendations contained in the report. Japan could not continue to argue that the report had not been accepted by the Commission on Human Rights, as it had joined the consensus when the Commission had taken note of the report, on 19 April 1996.

46. Japan's representative to the Sub-Commission had stated on 14 August with regard to the ILO procedure on that question that the observation made by the ILO Committee of Experts concerning the violation of the Forced Labour Convention (1930), No. 29, had not been discussed at the 1996 International Labour Conference. The Committee of Experts had made observations on some 550 cases in 1996; of those cases, the Standing Conference Committee had chosen only 27 cases, concerning 24 countries. The Standing Committee rarely chose a case for discussion the first time that an observation was made by the Committee of Experts, but that absolutely did not mean that it was in disagreement with the Committee of Experts.

47. Ms. FERNANDO (International Movement against All Forms of Discrimination and Racism) expressed concern at the increase of incidents related to violence against women and in particular the disappearance in Bangladesh on 12 June 1996 of Mrs. Kalpana Chakma, an indigenous rights activist. She endorsed the report of the Special Rapporteur on violence against women (E/CN.4/1996/53/Add.1), which called unequivocally on the Japanese State to compensate the "comfort women" who had been at the service of the Japanese army during the Second World War. Many of the victims were refusing the compensation proposed to be paid to them from the Asian Peace and Friendship Fund for Women, because they did not wish to renounce their claims and demanded that the Japanese State should grant them legal compensation. It was essential for the competent Japanese authorities to assure them that Japan would consider what it could do to fulfil its legal responsibility towards them. They deserved a moral expression of apology by the people as well as legal compensation by the State.

48. The Sub-Commission, in cooperation with all States Members of the United Nations, should draft unambiguous legal principles in order to avoid the recurrence of such tragic situations. It should review the reservations

filed by States parties to the Convention on the Elimination of All Forms of Discrimination against Women and continue to protect international principles in the field of human rights.

49. Mr. KUMAR KAUL (International Institute for Peace) said that the present unjust international economic order was an obstacle to the realization of human rights and fundamental freedoms. While the problems of colonialism, the cold war and apartheid had been resolved, the gap between the rich and poor was growing and development assistance was decreasing. There were at least two prerequisites for the creation of a just international economic order: the establishment of a process of sustainable development and the creation of a peaceful environment. Current development models were destroying the balance of nature and, because of the economic inequalities they engendered, were causing social tensions that could degenerate into dangerous political conflicts. Development programmes should be designed that focused on meeting

people's needs in the areas of food, health, shelter, literacy, employment and peace and on ensuring access by all countries to the fruits of scientific and technological progress.

50. The creation of an environment of global peace required an end to the arms race, a reduction in defence expenditures, a restriction on arms exports and the total elimination of all nuclear weapons. Many developing countries devoted a growing part of their already limited resources to arms, far beyond their needs for self-defence and security and at the expense of their economic and social development. It was time for the international community to ensure the realization of the right to peace. It must make an effort to encourage the spread of the principles of tolerance, liberty and harmonious coexistence which were the essential elements of any democracy. As long as those values were not firmly entrenched, world peace, a prerequisite for the economic, social and cultural progress of humanity, would never be assured.

51. The international community, which was endeavouring to organize elections in Bosnia, should fully support the efforts of the Indian Government to re-establish the democratic process in Jammu and Kashmir by organizing elections.

52. Ms. SUREKHA KAUL (Afro-Asian Peoples' Solidarity Organization) said that, despite international principles and national legislation to protect the rights of women, women continued to be deprived of the right to live in dignity. Violations of their freedom, dignity and integrity must be recognized as a major political crime.

53. She drew attention to the plight of the women of Kashmir. On account of terrorism, women from the minority Pandit community had been displaced, and some of them humiliated, raped and even killed. The increase in the mortality rate, and especially the low birth rate, meant that the community was facing extinction. Women in the majority community were also in a difficult situation; they were forced to watch their sons taking part in a conflict that was not at all the holy war for which they were ready to give their lives, and their children suffered from an educational system in shambles. Inadequate health care and social assistance affected women in all communities. She called on the international community to look into the situation of Kashmiri women and encourage all steps to eliminate terrorism, the cause of all their suffering, and to foster peace.

54. Mr. AL-HUMAIMIDI (Observer for Iraq) said that Iraq was very committed to equality for men and women, as reflected in article 19 of its Constitution, inter alia, which provided that all citizens were equal before the law and prohibited in particular any discrimination based on sex.

55. At the international level, Iraq had taken several steps on behalf of women. It had hosted a 1969 meeting in Baghdad on the role of women in the development of non-aligned countries. Iraqi women had taken an active part in various international meetings, in particular the Second World Conference on Women (Copenhagen, 1980), the World Conference to Review and Appraise the Achievements of the United Nations Decade for Women (Nairobi, 1985) and the drafting of the Convention on the Elimination of All Forms of Discrimination against Women.

56. At the national level, laws had been passed or amended so as to guarantee equality between men and women in the field of employment, particularly in the public sector and in the economic and legal fields, and so as to correct certain past injustices. Divorced women, for example, could keep their accommodation and generally received custody of the children.

57. Unfortunately, the embargo imposed on Iraq for the past six years had entailed a serious deterioration in the status of women, largely because of the shortage of food and medicine and the deteriorating health infrastructure.

More than half of all pregnant women suffered from anaemia, and, according to the World Food Programme, malnutrition affected 4 million Iraqis. The number of birth defects and miscarriages was increasing alarmingly. The Iraqi Government, which had fulfilled its obligations under the Security Council resolutions, hoped that the Sub-Commission would make every effort to ensure that the embargo was lifted and that the tragedy of the Iraqi people was brought to an end, particularly among the most vulnerable segments of the population.

58. Mr. CLERISME (Observer for Haiti) said that the great political upheavals of recent years, particularly the establishment or restoration of democracy in many countries, had not been followed by the expected social progress. As stressed by the Economic and Social Council, the world remained profoundly divided between rich and poor, both at the individual and the national level. Three quarters of the world population, mostly in developing countries, had access to only 15 per cent of world income. In Haiti, almost half the national revenue was in the hands of 1 per cent of the population.

59. The worsening of poverty and destitution throughout the world posed a major threat to political stability and social cohesion. The joint effects of the new international economic order based on privatization and deregulation, and the structural adjustment policies imposed by the international financial institutions, meant that the State risked losing its role as the guarantor of the collective interest and social progress. For several years, for example, Haiti had been undergoing an economic, social and political crisis, which it was attempting to surmount by establishing the rule of law and seeking solutions that did not aggravate social inequities.

60. The CHAIRMAN declared the general debate on agenda items 7 and 11 closed.

THE REALIZATION OF ECONOMIC, SOCIAL AND CULTURAL RIGHTS (agenda item 8) (E/CN.4/Sub.2/1996/10, E/CN.4/Sub.2/1996/11, E/CN.4/Sub.2/1996/12 and Corr.1, E/CN.4/Sub.2/1996/13, E/CN.4/Sub.2/1996/14, E/CN.4/Sub.2/1996/15, E/CN.4/Sub.2/1996/31, E/CN.4/Sub.2/1996/33, E/CN.4/Sub.2/1996/NGO/9, E/CN.4/Sub.2/1996/NGO/10, E/CN.4/Sub.2/1995/10, E/CN.4/Sub.2/1995/11, E/CN.4/Sub.2/1995/13, CHR/Dec./1996/104)

61. Mrs. McDOUGALL said she hoped the fact that women were particularly affected by the scourge would be stressed during the debates on extreme poverty.

62. Mr. DESPOUY (Special Rapporteur on human rights and extreme poverty), introducing his final report (E/CN.4/Sub.2/1996/13), said that since 1993, when he had begun the study, the number of persons affected by extreme poverty had continued to grow, even in developed countries, despite the positive economic results reported at the global level and the progress made in the scientific and technological fields.

63. While no one denied the gravity of extreme poverty, its magnitude was difficult to determine precisely, particularly because of the disparity and inadequacy of data, the unsuitability of the parameters used, lack of interest and concern about the poorest segment of the population and the risks of data manipulation, making better quantitative and qualitative knowledge of extreme poverty necessary.

64. Regarding the action undertaken by international institutions and bodies to combat poverty, the very constructive role played by the United Nations Development Programme (UNDP) should be stressed, as well as the shift in the policy of the World Bank, whose new Director had recently said there could be no satisfactory economic development without parallel social development. On the other hand, the IMF was sticking to its traditional macroeconomic policy, the negative impact of which had none the less been denounced by most United Nations bodies concerned with social questions and human rights.

65. Just as slaves and the victims of apartheid had been, the people affected by extreme poverty were trapped on an infernal treadmill that made it impossible to exercise basic rights, be they economic, social and cultural or civil and political. Furthermore, their children had very little chance of a better life. The question therefore arose as to why the international community, which had done so much in the struggle to eliminate slavery and apartheid, did not mobilize itself further to eradicate extreme poverty.

66. The time had come to face up to the gravity of the problem and do everything possible to remedy it, particularly by implementing the Copenhagen Programme of Action and by meeting the objectives defined within the framework of the International Decade for the Elimination of Poverty.

67. Mr. GENUISAS (International Federation of Free Journalists) said that population transfers impeded the exercise of economic, social and cultural rights, as demonstrated by the policies being carried out in Tibet by China, in Kosovo by Serbia, in East Timor by the Indonesians, in northern Cyprus by the Turks and in Chechnya by the Russians. The Crimean Tatars had still not recovered the property confiscated from them by Stalin, and the cultural identity of the Finno-Ugric peoples of the Russian Federation was being threatened by the predominance of the Russian language in education and government. Similarly, in the region of Kaliningrad, the Balts who had survived more than half a century of deportation could not be educated in their mother tongue. That was not the case of the Russian-speaking minorities living in the Baltic countries, who had none the less lost a third of their population from the genocide perpetrated by the Soviet Union, the authors of which remained unpunished.

68. Human rights violations would increase if the issues were not addressed. In Kosovo, 27,000 cases of human rights abuses had been reported in 1 year by the Kosovo Human Rights Council. In Cyprus, the Turkish Cypriot security forces had recently killed two Greek Cypriot demonstrators. In Belarus, the President, who had recently been denounced as a dictator by thousands of demonstrators, planned to decree a state of emergency and to incorporate the country into the Russian Federation. In Chechnya, according to the New York Times, the Russian Air Force had nearly reduced the country to ashes and killed tens of thousands of civilians. That was a flagrant violation of the Geneva Conventions and of the right of peoples to self-determination.

69. The CHAIRMAN interrupted the speaker, saying that he was dealing with questions not relevant to the agenda item under study. He called on all non-governmental organizations to limit their statements to questions under agenda item 8.

The meeting rose at 1.05 p.m.